

107TH CONGRESS  
1ST SESSION

# S. 493

To provide for the establishment of a Sioux Nation Economic Development Council.

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IN THE SENATE OF THE UNITED STATES

MARCH 8, 2001

Mr. DASCHLE (for himself and Mr. JOHNSON) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the establishment of a Sioux Nation Economic Development Council.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SIOUX NATION ECONOMIC DEVELOPMENT**  
4       **COUNCIL.**

5       Title IV of the Omnibus Indian Advancement Act  
6       (Public Law 106–568) is amended—

7               (1) in section 401—

8                       (A) in paragraph (5), by striking “and” at  
9               the end;

1 (B) in paragraph (6), by striking the pe-  
 2 riod and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(7) the establishment of a Native American  
 5 Economic Development Council will assist in pro-  
 6 moting economic growth and reducing poverty on  
 7 reservations of the Sioux Nation by—

8 “(A) coordinating economic development  
 9 efforts;

10 “(B) centralizing expertise concerning Fed-  
 11 eral assistance; and

12 “(C) facilitating the raising of funds from  
 13 private donations to meet matching require-  
 14 ments under certain Federal assistance pro-  
 15 grams.”; and

16 (2) by adding at the end the following:

17 **“Subtitle C—Sioux Nation**  
 18 **Economic Development Council**

19 **“SEC. 431. ESTABLISHMENT OF SIOUX NATION ECONOMIC**  
 20 **DEVELOPMENT COUNCIL.**

21 “(a) ESTABLISHMENT.—There is established the  
 22 Sioux Nation Economic Development Council (in this sub-  
 23 title referred to as the ‘Council’) as a part of the Wakpa  
 24 Sica Reconciliation Place. The Council shall be a chari-  
 25 table and nonprofit corporation and shall not be consid-

1 ered to be an agency or establishment of the United  
2 States.

3 “(b) PURPOSES.—The purposes of the Council are—

4 “(1) to encourage, accept, and administer pri-  
5 vate gifts of property;

6 “(2) to use those gifts as a source of matching  
7 funds necessary to receive Federal assistance;

8 “(3) to provide members of Indian tribes with  
9 the skills and resources necessary for establishing  
10 successful businesses;

11 “(4) to provide grants and loans to members of  
12 Indian tribes to establish or operate small busi-  
13 nesses;

14 “(5) to provide scholarships for members of In-  
15 dian tribes who are students pursuing an education  
16 in business or a business-related subject; and

17 “(6) to provide technical assistance to Indian  
18 tribes and members thereof in obtaining Federal as-  
19 sistance.

20 **“SEC. 432. BOARD OF DIRECTORS OF THE COUNCIL.**

21 “(a) ESTABLISHMENT AND MEMBERSHIP.—

22 “(1) IN GENERAL.—The Council shall have a  
23 governing Board of Directors (in this subtitle re-  
24 ferred to as the ‘Board’).

1           “(2) MEMBERSHIP.—The Board shall consist of  
2       11 directors, who shall be appointed by the Sec-  
3       retary as follows:

4           “(A)(i) Nine members appointed under  
5       this paragraph shall represent the 9 reserva-  
6       tions of South Dakota.

7           “(ii) Each member described in clause (i)  
8       shall—

9           “(I) represent 1 of the reservations  
10       described in clause (i); and

11          “(II) be selected from among nomina-  
12       tions submitted by the appropriate Indian  
13       tribe.

14          “(B) One member appointed under this  
15       paragraph shall be selected from nominations  
16       submitted by the Governor of South Dakota.

17          “(C) One member appointed under this  
18       paragraph shall be selected from nominations  
19       submitted by the most senior member of the  
20       South Dakota Congressional delegation.

21          “(3) CITIZENSHIP.—Each member of the Board  
22       shall be a citizen of the United States.

23       “(b) APPOINTMENTS AND TERMS.—

1           “(1) APPOINTMENT.—Not later than December  
2           31, 2001, the Secretary shall appoint the directors  
3           of the Board under subsection (a)(2).

4           “(2) TERMS.—Each director shall serve for a  
5           term of 2 years.

6           “(3) VACANCIES.—A vacancy on the Board  
7           shall be filled not later than 60 days after that va-  
8           cancy occurs, in the manner in which the original  
9           appointment was made.

10          “(4) LIMITATION ON TERMS.—No individual  
11          may serve more than 3 consecutive terms as a direc-  
12          tor.

13          “(c) CHAIRMAN.—The Chairman shall be elected by  
14          the Board from its members for a term of 2 years.

15          “(d) QUORUM.—A majority of the members of the  
16          Board shall constitute a quorum for the transaction of  
17          business.

18          “(e) MEETINGS.—The Board shall meet at the call  
19          of the Chairman at least once a year. If a director misses  
20          3 consecutive regularly scheduled meetings, that individual  
21          may be removed from the Board by the Secretary and that  
22          vacancy filled in accordance with subsection (b)(3).

23          “(f) REIMBURSEMENT OF EXPENSES.—Members of  
24          the Board shall serve without pay, but may be reimbursed  
25          for the actual and necessary traveling and subsistence ex-

1 penses incurred by them in the performance of the duties  
2 of the Council in accordance with section 434(a).

3 “(g) GENERAL POWERS.—

4 “(1) POWERS.—The Board may complete the  
5 organization of the Council by—

6 “(A) appointing officers and employees;

7 “(B) adopting a constitution and bylaws  
8 consistent with the purposes of the Council  
9 under this subtitle; and

10 “(C) carrying out such other actions as  
11 may be necessary to carry out the purposes of  
12 the Council under this subtitle.

13 “(2) EFFECT OF APPOINTMENT.—Appointment  
14 to the Board shall not constitute employment by, or  
15 the holding of an office of, the United States for the  
16 purposes of any Federal law.

17 “(3) LIMITATIONS.—The following limitations  
18 shall apply with respect to the appointment of offi-  
19 cers and employees of the Council:

20 “(A) Officers and employees may not be  
21 appointed until the Council has sufficient funds  
22 to pay them for their service.

23 “(B) Officers and employees of the  
24 Council—

1 “(i) shall be appointed without regard  
 2 to the provisions of title 5, United States  
 3 Code, governing appointments in the com-  
 4 petitive service; and

5 “(ii) may be paid without regard to  
 6 the provisions of chapter 51 and sub-  
 7 chapter III of chapter 53 of such title re-  
 8 lating to classification and General Sched-  
 9 ule pay rates.

10 “(4) SECRETARY OF THE BOARD.—The first of-  
 11 ficer or employee appointed by the Board shall be  
 12 the Secretary of the Board. The Secretary of the  
 13 Board shall—

14 “(A) serve, at the direction of the Board,  
 15 as its chief operating officer; and

16 “(B) be knowledgeable and experienced in  
 17 matters relating to economic development and  
 18 Indian affairs.

19 **“SEC. 433. POWERS AND OBLIGATIONS OF THE COUNCIL.**

20 “(a) CORPORATE POWERS.—To carry out its pur-  
 21 poses under section 431(b), the Council shall have, in ad-  
 22 dition to the powers otherwise given it under this subtitle,  
 23 the usual powers of a corporation acting as a trustee  
 24 under South Dakota law, including the power—

1           “(1) to accept, receive, solicit, hold, administer,  
2           and use any gift, devise, or bequest, either absolutely  
3           or in trust, of real or personal property or any in-  
4           come therefrom or other interest therein;

5           “(2) to acquire by purchase or exchange any  
6           real or personal property or interest therein;

7           “(3) unless otherwise required by the instru-  
8           ment of transfer, to sell, donate, lease, invest, rein-  
9           vest, retain, or otherwise dispose of any property or  
10          income therefrom;

11          “(4) to borrow money and issue bonds, deben-  
12          tures, or other debt instruments;

13          “(5) to sue and be sued, and complain and de-  
14          fend itself in any court of competent jurisdiction, ex-  
15          cept that the directors shall not be personally liable,  
16          except for gross negligence;

17          “(6) to enter into contracts or other arrange-  
18          ments with public agencies and private organizations  
19          and persons and to make such payments as may be  
20          necessary to carry out its function; and

21          “(7) to carry out any action that is necessary  
22          and proper to carry out the purposes of the Council.

23          “(b) OTHER POWERS AND OBLIGATIONS.—

24                 “(1) IN GENERAL.—The Council—

25                         “(A) shall have perpetual succession;



1           “(B) may conduct business throughout the  
2           several States, territories, and possessions of  
3           the United States and abroad;

4           “(C) shall have its principal offices in  
5           South Dakota; and

6           “(D) shall at all times maintain a des-  
7           ignated agent authorized to accept service of  
8           process for the Council.

9           “(2) SERVICE OF NOTICE.—The serving of no-  
10          tice to, or service of process upon, the agent re-  
11          quired under paragraph (1)(D), or mailed to the  
12          business address of such agent, shall be deemed as  
13          service upon or notice to the Council.

14          “(c) SEAL.—The Council shall have an official seal  
15          selected by the Board, which shall be judicially noticed.

16          “(d) CERTAIN INTERESTS.—If any current or future  
17          interest of a gift, devise, or bequest under subsection  
18          (a)(1) is for the benefit of the Council, the Council may  
19          accept the gift, devise, or bequest under such subsection,  
20          even if that gift, devise, or bequest is encumbered, re-  
21          stricted, or subject to beneficial interests of 1 or more pri-  
22          vate persons.

23   **SEC. 434. ADMINISTRATIVE SERVICES AND SUPPORT.**

24          “(a) PROVISION OF SERVICES.—The Secretary may  
25          provide personnel, facilities, and other administrative serv-

1 ices to the Council, including reimbursement of expenses  
 2 under section 432(f), not to exceed then current applicable  
 3 Federal Government per diem rates, for a period ending  
 4 not later than 5 years after the date of enactment of this  
 5 subtitle.

6 “(b) REIMBURSEMENT.—

7 “(1) IN GENERAL.—The Council may reimburse  
 8 the Secretary for any administrative service provided  
 9 under subsection (a). The Secretary shall deposit  
 10 any reimbursement received under this subsection  
 11 into the Treasury to the credit of the appropriations  
 12 then current and chargeable for the cost of providing  
 13 such services.

14 “(2) CONTINUATION OF CERTAIN ASSIST-  
 15 ANCE.—Notwithstanding any other provision of this  
 16 section, the Secretary is authorized to continue to  
 17 provide facilities, and necessary support services for  
 18 such facilities, to the Council after the date specified  
 19 in subsection (a), on a space available, reimbursable  
 20 cost basis.

21 **“SEC. 435. VOLUNTEER STATUS.**

22 “(a) IN GENERAL.—Notwithstanding any other pro-  
 23 vision of law, the Secretary may accept, without regard  
 24 to the civil service classification laws, rules, or regulations,  
 25 the services of the Council, the Board, and the officers

1 and employees of the Board, without compensation from  
 2 the Secretary, as volunteers in the performance of the  
 3 functions authorized under this subtitle.

4 “(b) INCIDENTAL EXPENSES.—The Secretary is au-  
 5 thorized to provide for incidental expenses, including  
 6 transportation, lodging, and subsistence to the officers and  
 7 employees serving as volunteers under subsection (a).

8 **“SEC. 436. AUDITS, REPORT REQUIREMENTS, AND PETI-**  
 9 **TION OF ATTORNEY GENERAL FOR EQUI-**  
 10 **TABLE RELIEF.**

11 “(a) AUDITS.—The Council shall be subject to audit-  
 12 ing and reporting requirements under section 10101 of  
 13 title 36, United States Code, in the same manner as is  
 14 a corporation under part B of that title.

15 “(b) REPORT.—As soon as practicable after the end  
 16 of each fiscal year, the Council shall transmit to Congress  
 17 a report of its proceedings and activities during such year,  
 18 including a full and complete statement of its receipts, ex-  
 19 penditures, and investments.

20 “(c) RELIEF WITH RESPECT TO CERTAIN COUNCIL  
 21 ACTS OR FAILURE TO ACT.—If the Council—

22 “(1) engages in, or threatens to engage in, any  
 23 act, practice, or policy that is inconsistent with the  
 24 purposes of the Council under section 431(b); or

1           “(2) refuses, fails, or neglects to discharge the  
2           obligations of the Council under this subtitle, or  
3           threatens to do so;  
4   then the Attorney General of the United States may peti-  
5   tion in the United States District Court for the District  
6   of Columbia for such equitable relief as may be necessary  
7   or appropriate.

8   **“SEC. 437. UNITED STATES RELEASE FROM LIABILITY.**

9           The United States shall not be liable for any debts,  
10   defaults, acts, or omissions of the Council, the Board, or  
11   the officers or employees of the Council. The full faith and  
12   credit of the United States shall not extend to any obliga-  
13   tion of the Council, the Board, or the officers or employees  
14   of the Council.

15   **“SEC. 438. GRANTS TO COUNCIL; TECHNICAL ASSISTANCE.**

16           “(a) GRANTS.—

17           “(1) IN GENERAL.—Not less frequently than  
18           annually, the Secretary shall award a grant to the  
19           Council, to be used to carry out the purposes speci-  
20           fied in section 431(b) in accordance with this sec-  
21           tion.

22           “(2) GRANT AGREEMENTS.—As a condition to  
23           receiving a grant under this section, the secretary of  
24           the Board, with the approval of the Board, shall  
25           enter into an agreement with the Secretary that

1 specifies the duties of the Council in carrying out  
2 the grant and the information that is required to be  
3 included in the agreement under paragraphs (3) and  
4 (4).

5 “(3) MATCHING REQUIREMENTS.—Each agree-  
6 ment entered into under paragraph (2) shall specify  
7 that the Federal share of a grant under this section  
8 shall be 80 percent of the cost of the activities fund-  
9 ed under the grant. No amount may be made avail-  
10 able to the Council for a grant under this section,  
11 unless the Council has raised an amount from pri-  
12 vate persons or State or local government agencies  
13 equivalent to the non-Federal share of the grant.

14 “(4) PROHIBITION ON THE USE OF FEDERAL  
15 FUNDS FOR ADMINISTRATIVE EXPENSES.—Each  
16 agreement entered into under paragraph (2) shall  
17 specify that a reasonable amount of the Federal  
18 funds made available to the Council (under the  
19 grant that is the subject of the agreement or other-  
20 wise), but in no event more than 15 percent of such  
21 funds, may be used by the Council for administrative  
22 expenses of the Council, including salaries, travel  
23 and transportation expenses, and other overhead ex-  
24 penses.

25 “(b) TECHNICAL ASSISTANCE.—

1           “(1) IN GENERAL.—Each agency head listed in  
 2           paragraph (2) shall provide to the Council such tech-  
 3           nical assistance as may be necessary for the Council  
 4           to carry out the purposes specified in section 431(b).

5           “(2) AGENCY HEADS.—The agency heads listed  
 6           in this paragraph are as follows:

7                   “(A) The Secretary of Housing and Urban  
 8           Development.

9                   “(B) The Secretary of the Interior.

10                  “(C) The Commissioner of Indian Affairs.

11                  “(D) The Assistant Secretary for Eco-  
 12           nomic Development of the Department of Com-  
 13           merce.

14                  “(E) The Administrator of the Small Busi-  
 15           ness Administration.

16                  “(F) The Administrator of the Rural De-  
 17           velopment Administration.

18   **“SEC. 439. AUTHORIZATION OF APPROPRIATIONS.**

19           “(a) AUTHORIZATION.—There are authorized to be  
 20   appropriated to the Secretary, \$10,000,000 for each of fis-  
 21   cal years 2002 through 2006, to be used in accordance  
 22   with section 438.

23           “(b) ADDITIONAL AUTHORIZATION.—The amounts  
 24   authorized to be appropriated under this section are in

1 addition to any amounts provided or made available to the  
2 Council under any other provision of Federal law.

3 **“SEC. 440. DEFINITION.**

4        “In this section the term ‘Secretary’ means the Sec-  
5 retary of Commerce.”.

